

visa petition if the decision became final before November 12, 1999, without prejudice to the filing of a new visa petition with a national interest waiver request that comports with section 203(b)(2)(B)(ii) of the Act.

(e) *May physicians file adjustment of status applications?* Upon approval of a second preference employment-based immigrant petition, Form I-140, and national interest waiver based on a full-time clinical practice in a shortage area or areas of the United States, an alien physician may submit Form I-485, Application to Register Permanent Residence or Adjust Status, to the appropriate Service Center. The Service will not approve the alien physician's application for adjustment of status until the alien physician submits evidence documenting that the alien physician has completed the period of required service. Specific instructions for alien physicians filing adjustment applications are found in §245.18 of this chapter.

(f) *May a physician practice clinical medicine in a different underserved area?* Physicians in receipt of an approved Form I-140 with a national interest waiver based on full-time clinical practice in a designated shortage area and a pending adjustment of status application may apply to the Service if the physician is offered new employment to practice full-time in another underserved area of the United States.

(1) If the physician beneficiary has found a new employer desiring to petition the Service on the physician's behalf, the new petitioner must submit a new Form I-140 (with fee) with all the evidence required in paragraph (c) of this section, including a copy of the approval notice from the initial Form I-140. If approved, the new petition will be matched with the pending adjustment of status application. The beneficiary will retain the priority date from the initial Form I-140. The Service will calculate the amount of time the physician was between employers so as to adjust the count of the aggregate time served in an underserved area. This calculation will be based on the evidence the physician submits pursuant to the requirements of §245.18(d) of this chapter. An approved change of practice to another under-

served area does not constitute a new 6-year period in which the physician must complete the aggregate 5 years of service.

(2) If the physician intends to establish his or her own practice, the physician must submit a new Form I-140 (with fee) with all the evidence required in paragraph (c) of this section, including the special requirement of paragraph (c)(1)(ii) of this section and a copy of the approval notice from the initial Form I-140. If approved, the new petition will be matched with the pending adjustment of status application. The beneficiary will retain the priority date from the initial Form I-140. The Service will calculate the amount of time the physician was between practices so as to adjust the count of the aggregate time served in an underserved area. This calculation will be based on the evidence the physician submits pursuant to the requirements of §245.18(d) of this chapter. An approved change of practice to another underserved area does not constitute a new 6-year period in which the physician must complete the aggregate 5 years of service.

(g) *Do these provisions have any effect on physicians with foreign residence requirements?* Because the requirements of section 203(b)(2)(B)(ii) of the Act are not exactly the same as the requirements of section 212(e) or 214(l) of the Act, approval of a national interest waiver under section 203(b)(2)(B)(ii) of the Act and this paragraph does not relieve the alien physician of any foreign residence requirement that the alien physician may have under section 212(e) of the Act.

[65 FR 53893, Sept. 6, 2000; 65 FR 57861, Sept. 26, 2000]

**§204.13 How can the International Broadcasting Bureau of the United States Broadcasting Board of Governors petition for a fourth preference special immigrant broadcaster?**

(a) *Which broadcasters qualify?* Under section 203(b)(4) of the Act, the International Broadcasting Bureau of the United States Broadcasting Board of Governors (BBG), or a grantee of the BBG, may petition for an alien (and the alien's accompanying spouse and

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children) to work as a broadcaster for the BBG or a grantee of the BBG in the United States. For the purposes of this section, the terms:

*BBG grantee* means Radio Free Asia, Inc (RFA) or Radio Free Europe/Radio Liberty, Inc. (RFE/RL); and

*Broadcaster* means a reporter, writer, translator, editor, producer or announcer for news broadcasts; hosts for news broadcasts, news analysis, editorial and other broadcast features; or a news analysis specialist. The term broadcaster does not include individuals performing purely technical or support services for the BBG or a BBG grantee.

(b) *Is there a yearly limit on the number of visas available for alien broadcasters petitioned by the BBG or a BBG grantee?*

(1) Under the provisions of section 203(b)(4) of the Act, a yearly limit of 100 fourth preference special immigrant visas are available to aliens intending to work as broadcasters in the United States for the BBG or a BBG grantee. These 100 visas are available in any fiscal year beginning on or after October 1, 2000.

(2) The alien broadcaster's accompanying spouse and children are not counted towards the 100 special broadcaster visa limit.

(c) *What form should the BBG use to petition for these special alien broadcasters?* The BBG or a BBG grantee shall use Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, to petition for an alien broadcaster. The petition must be submitted with the correct fee noted on the form.

(d) *Will the BBG need to submit supplemental evidence with Form I-360 for alien broadcasters?* (1) All Form I-360 petitions submitted by the BBG or a BBG grantee on behalf of an alien for a broadcaster position with the BBG or BBG grantee must be accompanied by a signed and dated supplemental attestation that contains the following information about the prospective alien broadcaster:

(i) The job title and a full description of the job to be performed; and

(ii) The broadcasting expertise held by the alien, including how long the alien has been performing duties that relate to the prospective position or a statement as to how the alien possesses

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the necessary skills that make him or her qualified for the broadcasting-related position within the BBG or BBG grantee.

(2) [Reserved]

[66 FR 51821, Oct. 11, 2001, as amended at 74 FR 26937, June 5, 2009]

### Subpart B [Reserved]

### Subpart C—Intercountry Adoption of a Convention Adoptee

SOURCE: 72 FR 56854, Oct. 4, 2007, unless otherwise noted.

#### § 204.300 Scope of this subpart.

(a) *Convention adoptees.* This subpart governs the adjudication of a Form I-800A or Form I-800 for a Convention adoptee under section 101(b)(1)(G) of the Act. The provisions of this subpart enter into force on the Convention effective date, as defined in 8 CFR 204.301.

(b) *Orphan cases.* On or after the Convention effective date, no Form I-600A or I-600 may be filed under section 101(b)(1)(F) of the Act and 8 CFR 204.3 in relation to the adoption of a child who is habitually resident in a Convention country. If a Form I-600A or Form I-600 was filed before the Convention effective date, the case will continue to be governed by 8 CFR 204.3, as in effect before the Convention effective date.

(c) *Adopted children.* This subpart does not apply to the immigrant visa classification of adopted children, as defined in section 101(b)(1)(E) of the Act. For the procedures that govern classification of adopted children as defined in section 101(b)(1)(E) of the Act, see 8 CFR 204.2.

#### § 204.301 Definitions.

The definitions in 22 CFR 96.2 apply to this subpart C. In addition, as used in this subpart C, the term:

*Abandonment* means:

(1) That a child's parent has willfully forsaken all parental rights, obligations, and claims to the child, as well as all custody of the child without intending to transfer, or without transferring, these rights to any specific individual(s) or entity.